

**Letter of Findings: 01-20182427
Individual Income Tax
For the Tax Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual failed to demonstrate that he did not have additional unreported Indiana taxable income, therefore failing to prove that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the tax year at issue.

ISSUE

I. Individual Income Tax - Federal Discrepancy.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2015.

STATEMENT OF FACTS

Taxpayer filed his 2015 Indiana income tax return in April 2016. In August 2018, based on information from the Internal Revenue Service ("IRS") showing that more taxable income had been reported to the IRS than had been reported to the Indiana Department of Revenue ("Department"), the Department adjusted Taxpayer's 2015 return which resulted in additional base tax due in the amount of \$1,279.00. The Department issued Taxpayer a proposed assessment for the increase, plus penalty and interest.

Taxpayer protested the assessment and waived his right to a hearing. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayer's protest file. Additional facts will be provided as necessary.

I. Individual Income Tax - Federal Discrepancy.

DISCUSSION

Based upon information received from the IRS, the Department adjusted Taxpayer's 2015 Indiana income tax return, resulting in an increase to Taxpayer's tax liability. Records obtained from the IRS showed that Taxpayer had an additional \$27,472 of Federal Adjusted Gross Income than what was reported on his 2015 IT-40. The Department assessed Taxpayer for the increase, plus penalty and interest. Thus the issue is whether Taxpayer adequately demonstrated that the adjustment to his 2015 Indiana income tax return, and the resulting assessment of additional tax due, was incorrect.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong for each tax year at issue. Poorly developed and non-cogent arguments are

subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In his protest letter, Taxpayer disagreed with the proposed assessment and stated that the IRS had made adjustments to his federal return. In support of his argument, Taxpayer provided a bill from the IRS indicating that adjustments had been made to his 2015 Form 1040 to adjust his income and self-employment tax. The letter indicated that there had been a decrease in Taxpayer's federal tax liability; however, the documentation provided does not show Taxpayer's Federal Adjusted Gross Income for 2015.

In a letter to Taxpayer dated December 5, 2018, the Department informed Taxpayer that the current assessment "is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line 1 of your Indiana state return." The letter went on to state that if Taxpayer disagreed with the adjustment, he should provide a copy of his 2015 Federal Record of Account Transcript to the Department by January 4, 2019. The Department's letter also provided two means through which Taxpayer could obtain his Federal Record of Account Transcript. Taxpayer did not respond to this letter. The Department sent a second letter requesting the Federal Record of Account, dated February 13, 2019. Taxpayer was given until March 12, 2019, to provide the additional documentation. Again, Taxpayer failed to provide this documentation.

As stated above, it is Taxpayer's burden to prove that the Department's assessment is incorrect. In doing so, Taxpayer is required to provide documentation to support his position. Because Taxpayer failed to respond to the Department's two requests for a copy of his Federal Record of Accounts demonstrating Taxpayer's current Federal Adjusted Gross Income for 2015, the statutory presumption is that the proposed assessment is correct. Taxpayer has not presented any evidence demonstrating that his federal AGI, as reported to the Department from the IRS, is incorrect. Thus, Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c). Taxpayer's protest is therefore denied.

FINDING

Taxpayer's protest is respectfully denied.

March 29, 2019

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